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9  
10 **BEFORE THE**  
**BOARD OF PODIATRIC MEDICINE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation Against:

Case No. 1B-2008-192629

13 **CLIFFORD WOLF, D.P.M.**  
14 **16008 Cross Fox Court**  
**Poway, CA 92064**

**FIRST AMENDED**  
**ACCUSATION**

15 **Podiatric Medicine License No. E 2161**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. James Rathlesberger (Complainant) brings this First Amended Accusation solely in  
21 his official capacity as the Executive Officer of the Board of Podiatric Medicine, Department of  
22 Consumer Affairs.

23 2. On or about June 29, 1977, the Board of Podiatric Medicine issued Podiatric  
24 Medicine License No. E 2161 to Clifford Wolf, D.P.M. (Respondent). The Podiatric Medicine  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on August 31, 2011, unless renewed. Pursuant to Business and Professions Code section  
27 2236.1, the license was automatically suspended by operation of law, effective December 21,  
28 2009.

**JURISDICTION**

3. This First Amended Accusation, which supersedes the original Accusation filed on December 17, 2009, in the above-entitled matter, is brought before the Board of Podiatric Medicine (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2222 of the Code states:

“The California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine. The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter.”

5. Section 2497 of the Code states:

"(a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

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1           "(b) The board may hear all matters, including but not limited to, any contested case  
2 or may assign any such matters to an administrative law judge. The proceedings shall be  
3 held in accordance with Section 2230. If a contested case is heard by the board itself, the  
4 administrative law judge who presided at the hearing shall be present during the board's  
5 consideration of the case and shall assist and advise the board."

6       6. Section 2227 of the Code states, in pertinent part:

7           "(a) A licensee whose matter has been heard by an administrative law judge of the  
8 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or  
9 whose default has been entered, and who is found guilty, or who has entered into a  
10 stipulation for disciplinary action with the board, may, in accordance with the provisions of  
11 this chapter:

12           "(1) Have his or her license revoked upon order of the board."

13           "..."

14       7. Section 2234 of the Code provides, in pertinent part:

15           "The Division of Medical Quality<sup>1</sup> shall take action against any licensee who is  
16 charged with unprofessional conduct.<sup>2</sup> In addition to other provisions of this article,  
17 unprofessional conduct includes, but is not limited to, the following:

18           "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting  
19 the violation of, or conspiring to violate any provision of this chapter.

20           "...  
21

22           <sup>1</sup> California Business and Professions Code section 2002, as amended and effective  
23 January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in  
24 the State Medical Practice Act (Cal. Bus. & Prof. Code, §§2000, et. seq.) means the "Medical  
Board of California," and references to the "Division of Medical Quality" and "Division of  
Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

25           <sup>2</sup> Unprofessional conduct under Business and Professions Code section 2234 is conduct  
26 which breaches the rules or ethical code of the medical profession, or conduct which is  
27 unbecoming to a member in good standing of the medical profession, and which demonstrates an  
28 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,  
575.)

1           “(e) The commission of any act involving dishonesty or corruption which is  
2 substantially related to the qualifications, functions, or duties of a physician and surgeon.

3           “...”

4       8.     Section 2236, subdivision (a), of the Code states:

5           “The conviction of any offense substantially related to the qualifications, functions, or  
6 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of  
7 this chapter. The record of conviction shall be conclusive evidence only of the fact that the  
8 conviction occurred.”

9       9.     Section 2261 of the Code states:

10           “Knowingly making or signing any certificate or other document directly or indirectly  
11 related to the practice of medicine or podiatry which falsely represents the existence or  
12 nonexistence of a state of facts, constitutes unprofessional conduct.”

13       10.    Section 480 of the Code states, in pertinent part:

14           “(a) A board may deny a license regulated by this code on the grounds that the  
15 applicant has one of the following:

16           “(1) Been convicted of a crime. A conviction within the meaning of this section  
17 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any  
18 action that a board is permitted to take following the establishment of a conviction may be  
19 taken when the time for appeal has elapsed, or the judgment of conviction has been  
20 affirmed on appeal, or when an order granting probation is made suspending the imposition  
21 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the  
22 Penal Code.

23           “(2) Done any act involving dishonesty, fraud, or deceit with the intent to  
24 substantially benefit himself or herself or another, or substantially injure another.

25           “(3) (A) Done any act that if done by a licentiate of the business or profession in  
26 question, would be grounds for suspension or revocation of license.

27           “...”

28       ///

1 11. Section 2266 of the Code states:

2 "The failure of a physician and surgeon to maintain adequate and accurate records  
3 relating to the provision of services to their patients constitutes unprofessional conduct."

4 **COST RECOVERY**

5 12. Section 2497.5, subdivision (a), of the Code states, in pertinent part:

6 "(a) The board may request the administrative law judge, under his or her proposed  
7 decision in resolution of a disciplinary proceeding before the board, to direct any licensee  
8 found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual  
9 and reasonable costs of the investigation and prosecution of the case."

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Conviction of a Crime)**

12 13. Respondent has subjected his Podiatric Medicine License No. E 2161 to disciplinary  
13 action under sections 2222, 2227, 2234, and 2497, as defined by section 2236, subdivision (a),  
14 and under section 480, subdivision (a) (1), in that he has been convicted of a crime substantially  
15 related to the qualifications, functions or duties of a podiatrist, as more particularly alleged  
16 hereinafter:

17 (a) On or about May 13, 2008, respondent was indicted by a grand jury for 14 counts of  
18 violating Title 18, United States Code section 1347 [Health Care Fraud], before the United States  
19 District Court, Southern District of California, in case number 08CR1542.

20 (b) On or about August 28, 2009, respondent pled guilty to Count 1 of the indictment  
21 which alleged as follows:

22 (c) Count 1 of the grand jury indictment in case number 08CR1542, alleged that  
23 respondent knowingly and willfully did the following:

24 "19. It was further a part of the scheme and artifice to defraud that defendant  
25 CLIFFORD J. WOLF performed routine footcare on patients and then falsely indicated in  
26 the patients' charts that incision and drainage procedures were performed."  
27  
28

1 "20. It was further a part of the scheme and artifice to defraud that defendant  
2 CLIFFORD J. WOLF completed superbills and caused claims to be submitted to Medicare  
3 for incision and drainage procedures that were not performed."

4 "21. It was further a part of the scheme and artifice to defraud that defendant  
5 CLIFFORD J. WOLF was paid more than \$70,000 between January 1, 2003 and December  
6 31, 2006, by Medicare for false and fraudulent claims for incision and drainage procedures  
7 he never performed."

8 (d) As a result of his conviction, respondent was sentenced to 5 months in federal prison,  
9 followed by 3 years of formal probation. Respondent was also ordered to pay \$66,347.00 in  
10 restitution and a \$5,000 fine, among other terms and conditions of supervision.

### 11 **SECOND CAUSE FOR DISCIPLINE**

#### 12 **(Commission of Fraudulent, Dishonest, or Corrupt Acts Substantially Related to the**

#### 13 **Qualifications, Duties or Functions of a Physician)**

14 14. Respondent has further subjected his Podiatric Medicine License No. E 2161 to  
15 disciplinary action under 2222, 2227, 2497 and 2234, as defined by section 2234, subdivision (e),  
16 of the Code, in that he has committed an act or acts of dishonesty or corruption which are  
17 substantially related to the related to the qualifications, functions, or duties of a podiatrist, as  
18 more particularly described hereinafter: Paragraph 13, above, is hereby incorporated by reference  
19 and realleged as if fully set forth herein.

### 20 **THIRD CAUSE FOR DISCIPLINE**

#### 21 **(Commission of Fraudulent, Dishonest, or Corrupt Acts With Intent to Benefit Himself or**

#### 22 **Substantially Injure Another)**

23 15. Respondent has further subjected his Podiatric Medicine License No. E 2161 to  
24 disciplinary action under section 480, subdivision (a)(2), of the Code, in that he has committed an  
25 act or acts of fraud or deceit with the intent to substantially benefit himself, or substantially injure  
26 another, as more particularly described hereinafter: Paragraph 13, above, is hereby incorporated  
27 by reference and realleged as if fully set forth herein.

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**FOURTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct by Making or Signing of False Documents)**

16. Respondent has further subjected his Podiatric Medicine License No. E 2161 to disciplinary action under sections 2222, 2227, 2234 and 2497 as defined by section 2266, of the Code in that he knowingly made or signed documents directly or indirectly related to the practice of podiatry which falsely represented the existence or nonexistence of a state of facts, as more particularly alleged hereinafter: Paragraph 13, above, is hereby incorporated by reference and realleged as if fully set forth herein.

**FIFTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct by Failure to Maintain Adequate and Accurate Medical Records)**

17. Respondent has further subjected his Podiatric Medicine License No. E 2161 to disciplinary action under section sections 2222, 2227, 2234 and 2497 as defined section 2266 of the Code, in that he failed to maintain adequate and accurate records relating to the provision of services to his patients, as more particularly alleged herein: Paragraph 13, above is hereby incorporated by reference and realleged as if fully set forth herein.

**SIXTH CAUSE FOR DISCIPLINE**

**(General Unprofessional Conduct)**

18. Respondent has further subjected his Podiatric Medicine License No. E 2161 to disciplinary action under sections 2222, 2227, 2234 and 2497 as defined as defined by section 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice podiatry, as more particularly alleged hereinafter: Paragraph 13, above, is hereby incorporated by reference and realleged as if fully set forth herein.

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**PRAYER**

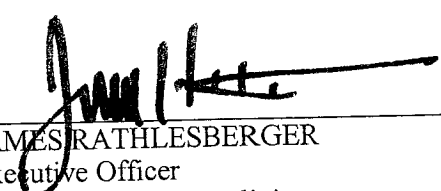
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Podiatric Medicine issue a decision:

1. Revoking or suspending Podiatric Medicine License No. E 2161, issued to Respondent Clifford Wolf, D.P.M.;

2. Ordering Respondent Clifford Wolf, D.P.M. to pay the Board of Podiatric Medicine the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2497.5; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: April 28, 2010

  
JAMES RATHLESBERGER  
Executive Officer  
Board of Podiatric Medicine  
Department of Consumer Affairs  
State of California  
*Complainant*